

General Information Letter: No estimated tax payments need be made for a short taxable year, including the short taxable year caused by death of the taxpayer, until regulations are adopted to provide guidance.

May 3, 2007

Dear:

This is in response to your letter dated April 11, 2007 in which you request a General Information Letter (GIL). A GIL is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), which may be accessed from the Department's web site at www.Iltax.com.

In your letter you have stated the following:

Under U.S. Treasury regulations, no estimated taxes have to be paid with respect to a deceased taxpayer's Illinois income taxes for any quarterly payment date following the date of death. Does a similar rule apply to the Illinois income tax so that there would be no penalty for estimated taxes coming due after death?

RULING

Section 401(a) of the Illinois Income Tax Act ("IITA" ; 35 ILCS 5/401(a)) states that a person's taxable year for Illinois income tax purposes is the same as the taxable year of such person for federal income tax purposes. Treasury regulations section 1.451-1(b) states that a taxpayer's taxable year ends on the date of his death. Under Code section 443(a)(2) and Treasury regulations section 1.443-1(a)(2), if a taxpayer is in existence for only part of what would otherwise be his taxable year, a return is required for the short period during which the taxpayer was in existence.

IITA section 803(f) states that, in the case of a short taxable year (i.e. a taxable year of less than 12 months) the requirement to pay estimated tax for the taxable year shall be in accordance with regulations prescribed by the Department. To date, the Department has not promulgated regulations prescribing the application of IITA section 803 to a short taxable year, and therefore estimated tax is not required to be paid for a short taxable year. Accordingly, a taxpayer generally has no Illinois estimated tax obligation for the taxable year that includes the date of his death, so that there can be no penalty for failure to pay estimated tax.

As stated above, this is a GIL. A GIL does not constitute a statement of policy that applies, interprets or prescribes the tax laws, and it is not binding on the Department. If you have further questions regarding this GIL, please call (217) 782-7055. If you have additional questions regarding Illinois income tax laws, please visit the Department's web site at www.Iltax.com.

Sincerely,

Brian L. Stocker
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